

Assembly Bill No. 3478

CHAPTER 1120

An act to amend Section 21635 of, to amend and renumber Section 21373 of, and to add Sections 21552 and 21553 to, the Government Code, to add Section 4856 to the Labor Code, and to amend Section 5101.2 of the Vehicle Code, relating to public employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1996. Filed
with Secretary of State September 30, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3478, Aguiar. Public employees: retirement: health benefits.

(1) The Public Employees' Retirement Law provides for survivor continuance allowances and special death benefits to surviving spouses not to cease upon remarriage. The provisions are not applicable to local members employed by contracting agencies unless elected by the agency and are not subject to collective bargaining.

This bill would make those benefits applicable to surviving spouses of deceased local safety members who were firefighters or peace officers who died in the line of duty.

The bill would also delete the collective bargaining exclusion thereby making those benefits available for collective bargaining by other local employees.

(2) Existing law provides for special payments to state and local peace officers for injuries arising out of and in the course of their duties.

This bill would require local employers to continue to provide health benefits to the spouses and dependents of firefighters and peace officers benefits to the spouses and dependents of firefighters and peace officers who died in the line of duty.

(3) Existing law requires the Department of Motor Vehicles to issue, upon the payment of special fees, environmental and other special license plates, including special license plates to firefighters who meet prescribed requirements.

This bill would authorize the transfer of those plates to surviving spouses upon the death of the person issued the plates.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 21373 of the Government Code is amended and renumbered to read:

21551. Notwithstanding any other provisions of this part, the benefits payable to a surviving spouse pursuant to Sections 21541, 21546, 21547, 21548, and Article 3 (commencing with Section 21570), shall be paid as follows:

(a) Any surviving spouse who remarries on or after September 19, 1989, shall continue to receive the lifetime allowance to which he or she is entitled, without reduction. However, pursuant to Section 22811.5, the surviving spouse who remarries on or after that date may not enroll his or her new spouse or stepchildren as family members under the continued health benefits coverage of the surviving spouse.

(b) Any surviving spouse who elected the reduction specified in Section 21550 shall be restored to the lifetime allowance to which he or she was originally entitled, for all benefits payable on or after September 19, 1989.

This section shall not apply to any contracting agency, unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after September 19, 1989, by express provision in the contract making the contracting agency subject to this section. This section shall only apply to a surviving spouse of a local member employed by the contracting agency whose remarriage occurred on or after the date the agency elects to be subject to this section. Any surviving spouse of a local member of the contracting agency, who elected the reduction specified in Section 21550, shall be restored to the lifetime allowance to which he or she was originally entitled, for all benefits payable on or after the election by the contracting agency to be subject to this section.

This section shall apply to a surviving spouse of a school member employed by a school district whose remarriage occurred on or after January 1, 1991. Any surviving spouse of a school member, who elected the reduction specified in Section 21550, shall be restored to the lifetime allowance to which he or she was originally entitled, for all benefits payable on or after January 1, 1991.

SEC. 2. Section 21552 is added to the Government Code, to read:

21552. Notwithstanding any other provision of this part, on and after the effective date of this section, the remarriage of any surviving spouse of any deceased local safety member who was a firefighter, or peace officer as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who died in the line of duty, shall not result in the reduction or cessation of any monthly allowance the spouse was receiving pursuant to Section 21541 and Article 3 (commencing with Section 21570).



SEC. 3. Section 21553 is added to the Government Code, to read:

21553. (a) The monthly allowance pursuant to Section 21541 and Article 3 (commencing with Section 21570), paid to the surviving spouse of any deceased local safety member who was a firefighter, or peace officer as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who died in the line of duty, shall be restored if that allowance has been reduced or discontinued upon the spouse's remarriage. The allowance shall be resumed on the effective date of this section, or the first of the month, following receipt by the board of a written application from the spouse for resumption of the allowance, whichever is later.

(b) The amount of the benefits due shall be calculated as though the allowance had never been reduced or discontinued because of remarriage, and shall not be payable for the period between the date of reduction or discontinuance and the effective date of resumption.

(c) The board has no duty to identify, locate, or notify a spouse who previously had his or her allowance reduced or discontinued because of remarriage.

(d) Any surviving spouse shall be entitled to restoration of terminated or diminished benefits upon application to the system if he or she previously qualified for special death benefits because his or her spouse died in the line of duty.

SEC. 4. Section 21635 of the Government Code is amended to read:

21635. Notwithstanding any other provisions of this part, survivor continuance allowances payable to surviving spouses upon death after retirement of a member shall not cease upon remarriage if the remarriage occurs on or after January 1, 1985. However, pursuant to Section 22811.5, the surviving spouse may not add the new spouse or stepchildren as family members under the continued health benefits coverage of the surviving spouse.

This section shall not apply to any contracting agency, other than those contracting agencies that are school districts or community college districts, as defined in subdivision (i) of Section 20057, until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after January 1, 1985, by express provision in the contract making the contracting agency subject to this section and, in that case, this section shall only apply to a surviving spouse of a local member employed by the contracting agency whose remarriage occurred on or after the date the contracting agency elects to be subject to this section.

SEC. 5. Section 4856 is added to the Labor Code, to read:

4856. Whenever any local employee who is a firefighter, or peace officer as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, is killed in the performance of his or her duty or dies as a result of an accident or injury caused by

external violence or physical force incurred in the performance of his or her duty, the employer shall continue providing health benefits to the deceased employee's spouse under the same terms and conditions provided prior to the death of the employee unless the surviving spouse elects to receive a lump-sum survivors benefit in lieu of monthly benefits. Minor dependents shall continue to receive benefits under the coverage provided the surviving spouse or, if there is no surviving spouse, until the age of 21 years. However, pursuant to Section 22811.5 of the Government Code, the surviving spouse may not add the new spouse or stepchildren as family members under the continued health benefits coverage of the surviving spouse.

SEC. 6. Section 5101.2 of the Vehicle Code is amended to read:

5101.2. (a) Any person otherwise eligible under this article who is a firefighter or a retired firefighter may apply for special license plates for the vehicle under this article. Any license plates issued pursuant to this section shall be issued in accordance with Section 5060.

(b) The applicant shall, by satisfactory proof, show all of the following:

(1) The applicant is, or has retired, in good standing as an officer, an employee, or a member of a fire department or a fire service of the state, a county, a city, a district, or any other political subdivision of the state, whether in a volunteer, partly paid, or fully paid status.

(2) The applicant is, or was until retirement, regularly employed as a firefighter or regularly enrolled as a volunteer firefighter.

(3) The applicant's principal duties fall, or fell until retirement, within the scope of active firefighting and any of the following activities:

- (A) Fire prevention service.
- (B) Fire training.
- (C) Hazardous materials abatement.
- (D) Arson investigation.
- (E) Emergency medical services.

(c) The special license plates issued under this section shall contain the words "California Firefighter" and shall run in a regular numerical series.

(d) In addition to the regular fees for an original registration, a renewal of registration, or a transfer of registration, the following special license plate fees shall be paid:

(1) A fee of thirty-five dollars (\$35) for the initial issuance of the special license plates. These special license plates shall be permanent and shall not be required to be replaced.

(2) A fee of twenty dollars (\$20) for each renewal of registration which includes the continued display of the special license plates.

(3) If the special license plates become damaged or unserviceable, a fee of thirty-five dollars (\$35) for the replacement of the special

license plates, obtained from the department upon proper application therefor.

(4) A fee of fifteen dollars (\$15) for the transfer of the special license plates to another vehicle qualifying as a vehicle owned by a firefighter who has met the requirements set forth in subdivision (b).

(5) In addition, for the issuance of environmental license plates, as defined in Section 5103, with the special firefighter personal vehicle license plates and distinctive design or decal, the additional fees prescribed in Sections 5106 and 5108. The additional fees collected pursuant to this paragraph shall be deposited in the California Environmental License Plate Fund.

(e) Upon the death of a person issued special license plates pursuant to this section, the plates shall be transferred to the surviving spouse, if he or she requests, or shall be returned to the department within 60 days after the death of the plateholder or upon the expiration of the vehicle registration, whichever occurs first.

(f) Except as provided in paragraph (5) of subdivision (d), the revenues derived from the additional special fees provided in this section, less costs incurred by the department pursuant to this section, shall, prior to January 1, 1999, be deposited in the California Firefighters' Memorial Fund established by Section 18518.2 of the Revenue and Taxation Code.

(g) Except as provided in paragraph (5) of subdivision (d), the revenues derived from the additional special fees provided in this section, less costs incurred by the department pursuant to this section, shall, on and after January 1, 1999, be deposited in the California Fire and Arson Training Fund established by Section 13159.10 of the Health and Safety Code.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for retirement and health benefit payments to be promptly resumed to surviving spouses of deceased firefighters and peace officers who died in the line of duty this act shall take effect immediately.